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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,774	11/13/2001	Baoqing Ye	Verizon-18	2755
32127	7590	04/10/2007	EXAMINER	
VERIZON			JUNTIMA, NITTAYA	
PATENT MANAGEMENT GROUP				
1515 N. COURTHOUSE ROAD, SUITE 500			ART UNIT	PAPER NUMBER
ARLINGTON, VA 22201-2909			2616	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/10/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/10/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@VERIZON.COM

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/010,774	YE, BAOQING	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nittaya Juntima	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 03 January 2007.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 3-6,9 and 17-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1-6 and 17-23 is/are allowed.

6)  Claim(s) 9 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 13 November 2001 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_\_.  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is in response to the amendment filed on 1/3/2007.
2. The objections to the claims are withdrawn in view of applicant's amendment.
3. Claims 1-2, 7-8, and 10-16 were cancelled.
4. Claims 3-6 and 17-23 are allowed.
5. Claim 9 remains rejected under 35 U.S.C. 102(b).

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Van As et al. ("Van As") (US 5,901,140).

Regarding claim 9, as shown in Figs. 1 and 2, Van As teaches a packet flow control method comprising the steps of:

Detecting congestion in a first node (switch 3) along a packet flow path between a source device (an inherent source device must be included to send traffic into the ATM network shown in Figs. 1 and 2) and a destination device (a destination device must be included to received the traffic from the ATM network) (col. 3, lines 47-49, 52-54, col. 4, lines 26-28).

Operating the first node to perform a forced reduction (hold back all cells flowing via the bottleneck link 5) in the flow rate of at least one packet flow in response to detecting traffic congestion as a function of a base line flow rate for traffic flowing through the first node (col. 3, lines 47-49, 54-60, col. 4, lines 29-39).

Identifying a node (upstream switch 2) in said path preceding said first node (upstream switch 2 with cells flowing to the bottleneck link 5 must be identified, col. 3, lines 56-col. 4, lines 2, 39-47, 53-59).

Transmitting to said preceding node a traffic regulation signal used to initiate flow rate control on flows identified from information included in said traffic regulation signal (col. 3, lines 60-col. 4, lines 2, 39-47, 53-59).

Operating said preceding node to perform a forced reduction (hold back all cells flowing via the bottleneck link 5) in the flow rate of at least one packet flow in response to detecting traffic congestion as a function of a base line flow rate for traffic flowing through the preceding node (col. 3, lines 47-49, 66-col. 4, lines 2, 45-53).

***Response to Arguments***

8. Applicant's arguments filed 1/3/07 have been fully considered but they are not persuasive.

A. In the remarks regarding claim 9 (see page 10 of the Remarks), the applicant argues that Van As does not teach detecting traffic congestion as a function of a base line flow rate. Rather Van As teaches away from this feature by disclosing an analysis of a rate which equals or

exceeds the capacity of the link; there is no need to view a historical or expected flow rate to determine congestion, but simply a determination that the capacity of the link has been hit.

In response, since “a function of a base link flow rate” is not further defined, the teaching of Van As on page 3, lines 47-49 which recites “If the coming rate of cells is larger than the link transmission rate, a bottleneck exists at this link” reads on the function of a base link flow rate – if the coming rate of cells (traffic flowing through the node) > the link transmission rate (a base line flow rate), then a bottleneck exists (congestion is detected). Clearly, there is no functional or structural difference between the claimed limitation and the teaching of Van As, therefore, the claim limitation is met.

Further, it is noted that the features upon which applicant relies (i.e., viewing of historical or expected flow rate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Therefore, the rejection is maintained.

### ***Conclusion***

**9. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nittaya Juntima whose telephone number is 571-272-3120. The examiner can normally be reached on Monday through Friday, 8:00 A.M - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nittaya Juntima  
March 30, 2007

*N*

  
HUY D. VU  
SUPERVISORY PATENT EXAMINER  
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